

**REMARKS**

This amendment is responsive to the Office Action of March 18, 2009. Reconsideration and allowance of claims 2-17 is requested.

**The Office Action**

Claims 2-13, and 15-17 stand rejected under 35 U.S.C. § 103 over Khair (US 2002/0109/621) in view of Borchardt (US 5,383,044).

Claims 8 and 14 stand rejected under 35 U.S.C. § 103 over Khair as modified by Borchardt as further modified by Lui (US 2002/0180622).

**The Present Amendment Should Be Entered**

The present amendment should be entered as placing the application in better condition for appeal by removing two potential indefiniteness issues. First, claim 5 has been amended such that the verb “transmits” agrees with its singular noun subject. Second, claim 15, line 6 has been amended such that the antecedent basis for “the encoded first medical network device ID” in line 10 is set forth with precisely the same wording.

Because this amendment merely reduces issues on appeal and raises no issues that would require further search or consideration, it is submitted that it should be entered.

**The Claims Distinguish Patentably  
Over the References of Record**

In the present application, an allocation unit introduces first and second network elements such that the second network element can receive the first network element into its established network.

**Claim 4** calls for the allocation unit to transmit a code to the first network element and for the second network element to receive the code from the allocation unit. In the Office Action, the Examiner appears to consider the user interface 61 of the base unit 18 to be the equivalent of the allocation unit; the base unit 18 to be equivalent to the second network element; and one of the element assemblies 16 to be the first network element. Such an interpretation of Khair fails to set forth an allocation unit which transmits a code to a first network element, i.e., the interface 61 of Khair does not send a code to the electrode assemblies 16. Indeed, the

base unit's user interface communicates only with the base unit and does not send a code, much less a common code, to both the base unit to which it is hard wired and one of the electrode assemblies 16. Each electrode assembly 16 of Khair communicates only with the base unit 18.

Stated another way, Khair sets forth a linear arrangement in which a user interface 61 talks only to a base unit 18 into which it is hard wired; the base unit talks only with the electrode assembly 16; and each electrode assembly 16 talks only to the base unit. In claim 4, the allocation unit talks to both the first network element and the second network element after which the first and second electrode elements talk to each other. In this manner, the communications called for in claim 4 call for a loop whereas communications described in Khair flow only in a straight line.

**Claim 4** further calls for the first network element to transmit its ID with the code so that the first network element can be received by the second network element. Khair describes no "code" which is used to introduce first and second network elements. Moreover, rather than the base unit 18 of Khair waiting to receive the code and an ID from a network element, the base unit of Khair initiates communication with each electrode assembly 16.

The Examiner asserts that [0118] of Khair sets forth a "code" as recited in claim 4. The applicant disagrees. The code as used in claim 4 is sent to the first network element by the allocation means and this same code is sent by the first network element to the second network element. By contrast, in Khair the base unit 18 initiates communication with one of the electrode assemblies 16 by sending a connection request message 272 in response to which the electrodes reply with a connection confirmation message 274. Thus, in Khair, the order in which the base and electrode assemblies initially address each other is the opposite of the order in which the first and second network elements of claim 4 address each other. Moreover, claim 4 calls for the first network element to receive the code from the allocation means and for the network element to supply the same code that it received from the allocation means to the second network element. By contrast, [0018] of Khair calls for the electrode assembly 16 to receive one message, particularly a connection request message 272, and send a different message to the base unit, particularly a connection confirmation message 274.

Borchardt was not cited as and does not cure any of the shortcomings of Khair. Borchardt is merely an RF-IR translator. Specifically, Borchardt wants to

use a radio frequency remote control module to control a TV, VCR, or the like which is configured to be controlled by a light signal. Borchardt indicates that this is important both for a universal remote which needs to send control commands to various electronic components, such as TVs, VCRs, or the like some of which may be light controlled and some of which may be RF controlled. Borchardt also indicates that his translator is important for increasing the range of the hand held remote because RF remotes have a longer range than light based remotes. Thus, in its normal mode of use, Borchardt is merely a translator which receives an RF command and outputs a corresponding IR command via LED 40. The IR detector 48 is used in the programming mode (col. 6, lines 39-42).

It appears that the Examiner is asserting that Borchardt renders it obvious to remove the user interface 61 from the base unit 18 and move it to a remote location. First, it should be noted that Borchardt is not a remote; but rather is a translator for translating RF control signals from an RF remote into IR controlled signals. Second, even if the user interface 61 of Khair were wirelessly connected to it, the interface would still only communicate with the base unit 18. Such movement of the base unit interface 61 of Khair into a hand held remote still would not teach communicating a code from the hand held remote to one of the electrode assemblies 16. Accordingly, it is submitted that Borchardt does nothing to overcome the shortcomings of Khair noted above.

For the reasons set forth above, it is submitted that claim 4 and claims 2, 3, and 5-8 dependent therefrom distinguish patentably and unobviously over the references of record.

**Claim 9** calls for a transmitter which transmits a code to a first network element, which code causes the first network element to transmit its ID together with said code to a second network element. Khair fails to teach or fairly suggest a system in which a transmitter transmits a code to one of the electrode assemblies 16, which code causes the electrode assembly to transmit that code to a second network element. The user interface 61 of Khair does not communicate a code to one of the electrode assemblies 16. Moreover, as set forth in [0118] of Khair, each electrode assembly receives one message, particularly a connection request message 272 and sends the base unit 18 a different message, particularly a connection confirmation message 274. Borchardt was not cited as and does not cure this shortcoming of Khair. For these and reasons set forth in conjunction with the

discussion of claim 4, it is submitted that claim 9 and claims 10-14 dependent therefrom distinguish patentably and unobviously over the references of record.

**Claim 15** calls for an allocation unit which transmits a code and an unassigned first medical network device which receives the code. The user interface 61 of Khair does not transmit a code to the electrode assemblies 16.

Further, claim 15 calls for the first medical network device to transmit an encoded first medical network device ID with said code in response to reception of the code. As set forth in [0118] of Khair, the electrode assemblies 116 receive a connection request message and respond by sending a connection confirmation message. Thus, the electrode assemblies 16 of Khair do not receive and send the same code in response to receiving the code.

**Claim 15** further calls for a second medical device which receives the first medical device ID that was transmitted in response to the first medical network device receiving the code from the allocation unit. By contrast, in Khair, the base unit 18 is the only unit which transmits or receives signals from the electrode assemblies. There is no three-way communication in Khair as recited in claim 15.

Borchardt is not recited as and does not cure this shortcoming of Khair. Borchardt is merely an RF to IR translator which, it is submitted, is not relevant prior art to Khair or the present application.

For the reasons set forth above it is submitted that claim 15 and claims 16 and 17 dependent therefrom distinguish patentably and unobviously over the references of record.

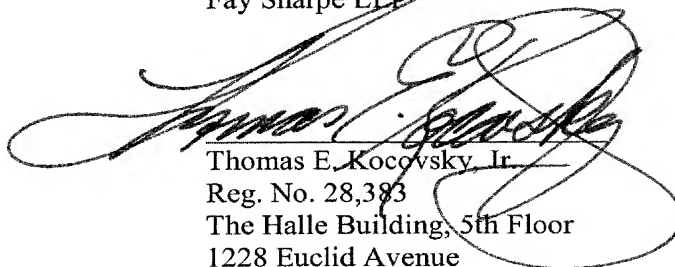
**CONCLUSION**

For the reasons set forth above, it is submitted that claims 2-17 distinguish patentably over the references of record. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case(s), he is requested to telephone the undersigned at 216.363.9000.

Respectfully submitted,

Fay Sharpe LLP

A large, stylized handwritten signature in black ink, which appears to read "Thomas E. Kocovsky, Jr.", is written over the printed name and address.

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